

**CALENDAR ITEM
C01**

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04/05/16
PRC 9098.1
G. Asimakopoulos

AMENDMENT OF LEASE

LESSEE:

John A. Lambeth and Carson Lambeth

EXISTING LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 33912 South River Road, near Clarksburg, Yolo County.

AUTHORIZED USE:

Construction, use, and maintenance of a covered single-berth floating boat dock, four steel-tubed concrete pilings, gangway, water and power utilities, and the placement of bank protection.

LEASE TERM:

10 years, beginning December 2, 2013.

CONSIDERATION:

Covered single-berth boat dock, four steel-tubed concrete pilings, gangway, and water and power utilities: \$489 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

Bank Protection: The public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

PROPOSED AMENDMENT:

Amend the lease to extend the construction completion date from December 31, 2015, to December 31, 2019. All other terms and conditions of the lease shall remain in effect without amendment.

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STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b)

Public Trust and State's Best Interests Analysis:

The subject lease amendment will give the Lessee additional time to construct a covered single-berth floating boat dock and appurtenant facilities for the docking and mooring of boats for recreational uses. Recreational boating is a water-dependent activity and is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an appropriate use of public trust lands (Pub. Resources Code, § 6503.5). The authorized improvements are privately owned and maintained.

The existing lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years, a non-exclusive use provision, and a reservation to the people of the State of California of an easement for access across the lease area.

The proposed covered single-berth floating boat dock and appurtenant facilities would not significantly alter the land, they would not permanently sever State resources, and they would not permanently impair public rights. Upon termination of the lease, the Lessee may be required to remove all improvements and restore the lease premises to their original condition. The proposed dock and appurtenant facilities are consistent with the design of other similar facilities in the area and are not larger than necessary to accomplish the intended purpose.

The proposed bank protection is consistent with the common law public trust doctrine because it serves as an aid to navigation by providing reinforced structural support to the banks of the waterway and limiting potentially harmful erosion of the bank into the waterway. The bank protection also confers benefits to the upland owner by ensuring sufficient sublateral support to the adjoining property.

Based on the foregoing, Commission staff believes that the proposed dock, appurtenant facilities, and bank protection will not substantially interfere with public trust needs, at this location, at this time and for the foreseeable term remaining on the lease.

The existing lease requires the Lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the Lessee's

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activities thereon. For all the reasons above, Commission staff believes the amendment of this lease is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On December 2, 2013, the Commission authorized a General Lease – Recreational and Protective Structure Use to John A. Lambeth and Carson Lambeth for the construction, use, and maintenance of a covered single-berth floating boat dock, four steel-tubed concrete pilings, gangway, water and power utilities, and the placement of bank protection (dock facilities). That lease will expire on December 1, 2023. The Lessee is now applying for an amendment to the existing General Lease – Recreational and Protective Structure Use to allow for additional time to construct the dock facilities.
3. The existing lease requires the Lessee to have all approvals and/or permits in place and to have completed construction by December 31, 2015.
4. The Lessee has obtained all necessary permits and/or approvals to construct the dock facilities. However due to unforeseen issues with the contractor selected to construct the dock facilities, the authorized facilities were not constructed by the construction deadline of December 31, 2015. The Lessee has been in regular contact with Commission staff about delays, and their progress to hire another contractor to complete the construction of the dock facilities. The plans for the proposed facilities and the character of the leased area have not changed since the lease was originally authorized in late 2013.
5. Staff recommends the Commission authorize a lease amendment to amend the construction deadlines set forth in the lease. This amendment would give the Lessee adequate time to construct the proposed dock facilities.
6. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.
7. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA)

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as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures, California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, National Oceanic and Atmospheric Administration's National Marine Fisheries Service, Central Valley Regional Water Quality Control Board; Central Valley Flood Protection Board.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment will not substantially interfere with the public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 3, New Construction of Small Structures; California Code of Regulations, Title 2, section 2905, subdivision (c)(1).

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SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9098.1, a General Lease – Recreational and Protective Structure Use, effective December 31, 2015, to amend the construction ‘completed by’ date in Section 1 and Section 2, paragraph 7, from December 31, 2015, to December 31, 2019; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9098.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River, lying adjacent to Swamp and Overflowed Land Survey 270, patented date September 13, 1866, County of Yolo, State of California and more particularly described as follows:

All those lands underlying the proposed covered single-berth slip, gangway and four pilings lying adjacent to that parcel described in Grant Deed, recorded May 28, 2009 in Document Number 2009 -0016570-00 in Official Records of said County.

TOGETHER WITH any applicable Impact Area(s).

ALSO TOGETHER WITH that land lying immediately beneath any proposed Bank Protection Structure adjacent to that parcel described in said Grant Deed.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the right bank of said river.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

This description is based on Applicant provided site plan by DCC Engineering Co., Inc., dated September 6, 2012 and revised February 1, 2013 for a proposed covered single-berth boathouse, together with any and all appurtenances pertaining thereto, to be built at a later date within the Lease time frame. This description is to be updated once final as-built plans are submitted.

Prepared 03/07/16 by the California State Lands Commission Boundary Unit



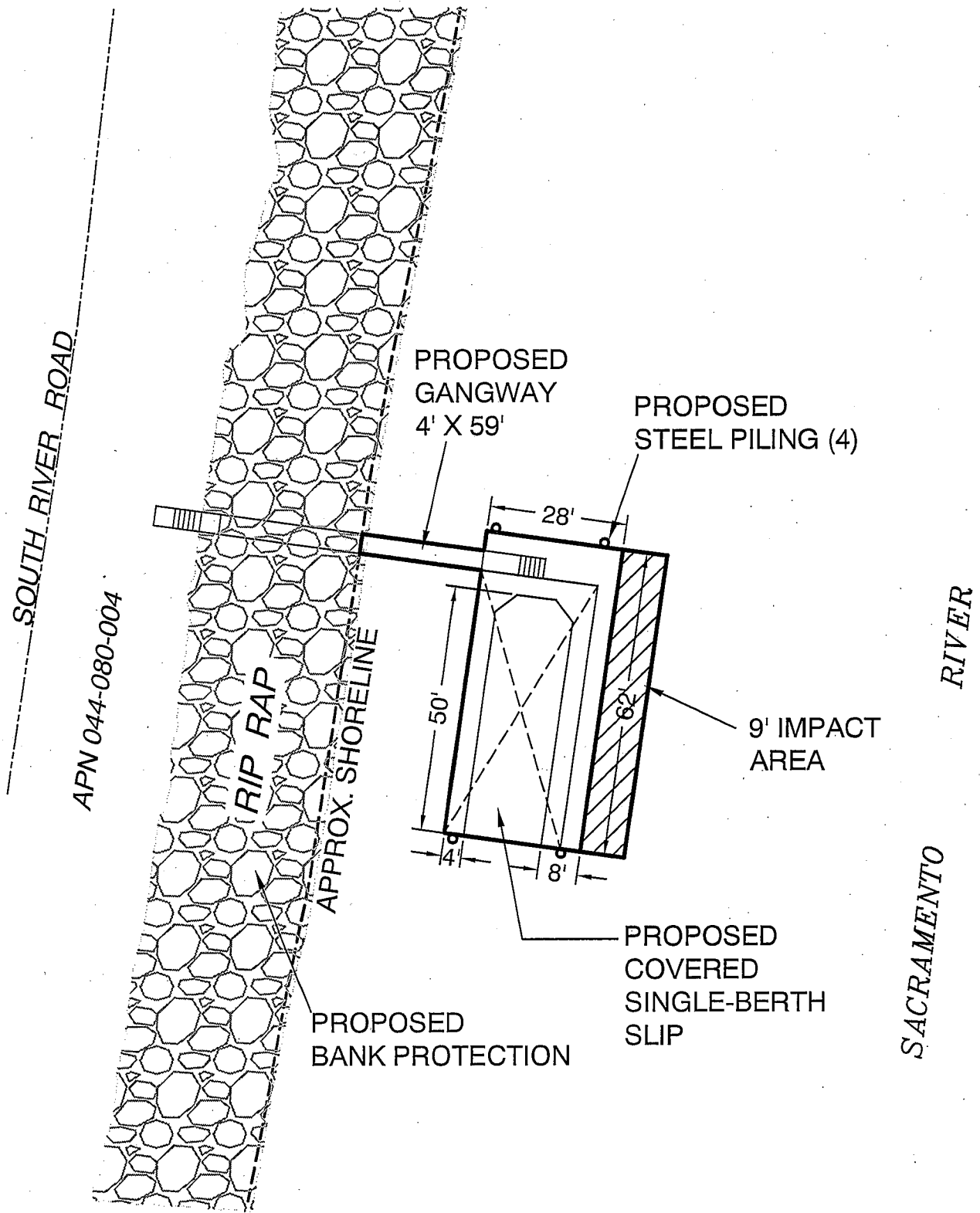


EXHIBIT A

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LAND DESCRIPTION PLAT
PRC 9098.1, LAMBETH
YOLO COUNTY

CALIFORNIA STATE
LANDS COMMISSION

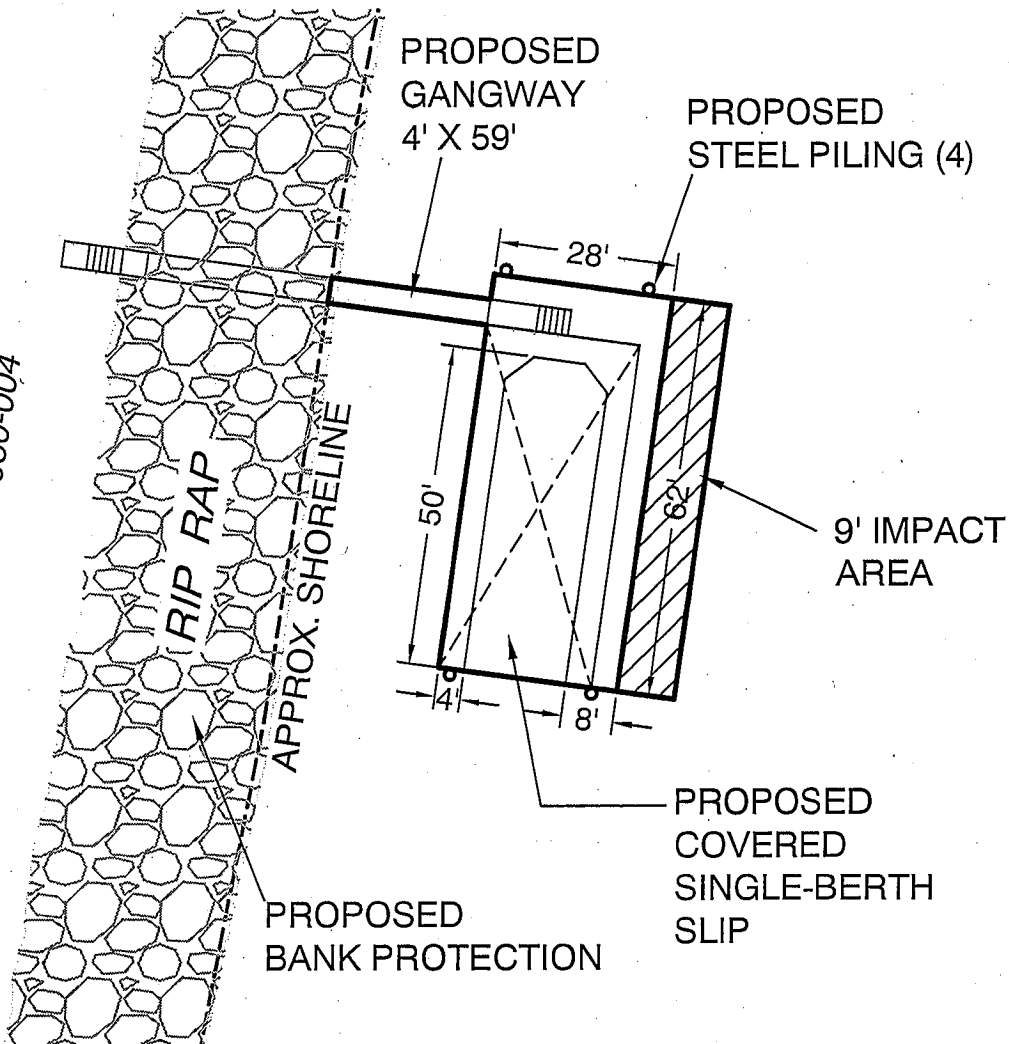


NO SCALE

SITE

SOUTH RIVER ROAD

APN 044-080-004



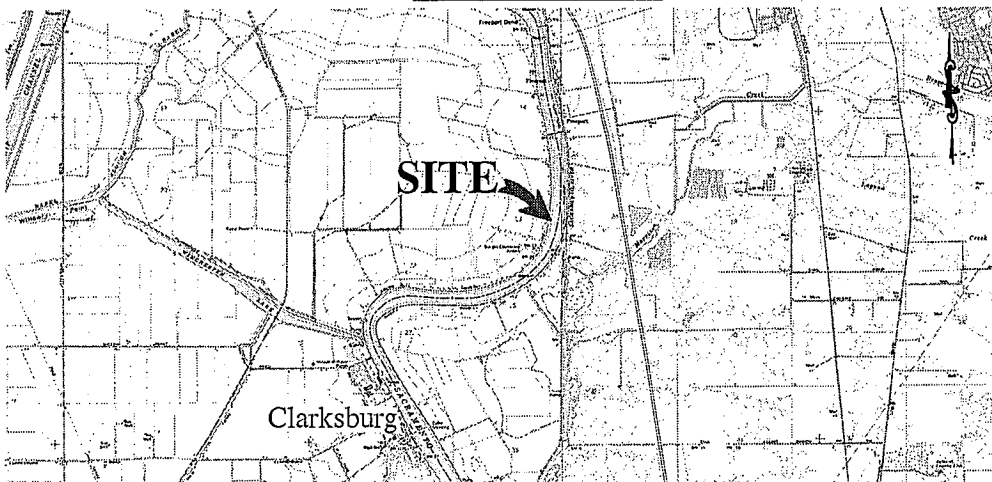
RIVER

SACRAMENTO

33912 S. RIVER ROAD, NEAR CLARKSBURG

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 9098.1
LAMBETH
APN 044-080-004
GENERAL LEASE -
RECREATIONAL & PROTECTIVE
STRUCTURE USE
YOLO COUNTY



TS 03/07/16

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.